

08/095,801, filed July 20, 1993, now abandoned, which is continuation of application Serial No. 07/501,904, filed March 29, 1990, now abandoned, which is a continuation-in-part of application Serial No. 07/355,027, filed May 19, 1989, now abandoned, which are all hereby incorporated by reference.

REMARKS

Claims 40, 41, 43, 44 and 46-49 are pending.

In the October 10, 1997, Office Action, the Examiner rejected claims 40, 41, 43, 44 and 46-49 under 35 U.S.C. §102(e) as allegedly being anticipated by Stetler-Stevenson (U.S. Patent No. 5,595,885). Specifically, the Examiner alleged that Figure 8 of the Stetler-Stevenson disclosed amino acids 1-194 in Figure 2 of the present application. See page 2, paragraph 7, of the Office Action. The Examiner also alleged that Stetler-Stevenson taught the cloning of a cDNA encoding TIMP-2 and that a cDNA clone encoding the amino acid sequence of TIMP-2 may be expressed in any suitable expression system, either prokaryotic or eukaryotic. Id.

In response, Applicants respectfully traverse the rejection. Applicants assert that the rejection should be withdrawn because the Examiner improperly relies on Stetler-Stevenson as the basis for a rejection under §102(e). To properly reject claims under 35 U.S.C. §102(e), the Examiner must find that the claimed invention was described in a patent which was granted on an application by another filed in the United States before the application under examination. Applicants assert that the disclosure relied upon for the present rejection was first presented in an application that was filed in the United States after the present application.